

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Yu	Team: Squad #3	CCRB Case #: 201800206	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 01/01/2018 9:00 AM	Location of Incident: § 87(2)(b)	Precinct: 10	18 Mo. SOL 7/1/2019	EO SOL 7/1/2019	
Date/Time CV Reported Mon, 01/01/2018 12:38 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 01/09/2018 11:10 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Vallery Alexis	03522	942937	PSA 4
2. POM Richardson Rabil	03289	943707	PSA 4

Officer(s)	Allegation	Investigator Recommendation
A.POM Richardson Rabil	Force: Police Officer Richardson Rabil used physical force against § 87(2)(b)	§ 87(2)(b)
B.POM Richardson Rabil	Force: Police Officer Richardson Rabil used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Vallery Alexis	Force: Police Officer Vallery Alexis used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Vallery Alexis	Force: Police Officer Vallery Alexis used physical force against § 87(2)(b)	§ 87(2)(b)
E.POM Richardson Rabil	Force: Police Officer Richardson Rabil used physical force against § 87(2)(b)	§ 87(2)(b)
F.POM Vallery Alexis	Force: Police Officer Vallery Alexis used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

On January 1, 2018, § 87(2)(b) filed this complaint with IAB. The case was closed pending litigation and reopened on August 21, 2018, upon § 87(2)(b) request.

On January 1, 2018, at approximately 9:00 a.m., PO Richardson Rabil and PO Vallery Alexis of PSA 4, who has since been promoted to Sergeant and is currently assigned to Transit District 3, responded to a call of an assault at § 87(2)(b), in Manhattan. At the location, PO Rabil and PO Alexis chased § 87(2)(b) down the stairs. PO Rabil allegedly pushed § 87(2)(b) down the stairs (**Allegation A: Force,** § 87(2)(g)). Once outside the building, PO Rabil took § 87(2)(b) down to the ground (**Allegation B: Force,** § 87(2)(g)) and PO Alexis punched § 87(2)(b) (**Allegation C: Force,** § 87(2)(g)). § 87(2)(b) was handcuffed and escorted into the lobby of the building. Inside, while § 87(2)(b) was in handcuffs, PO Alexis and PO Rabil took § 87(2)(b) down to the ground (**Allegation D: Force,** § 87(2)(g)). **Allegation E: Force,** § 87(2)(g) § 87(2)(b) was lifted up and while still inside the lobby, PO Alexis pushed § 87(2)(b) arms up (**Allegation F: Force,** § 87(2)(g) § 87(2)(b)).

There is NYCHA video footage capturing this incident (Board Review 05-07).

Findings and Recommendations

Allegation (A) Force: Police Officer Richardson Rabil used physical force against § 87(2)(b)

Allegation (B) Force: Police Officer Richardson Rabil used physical force against § 87(2)(b)

In his CCRB statement, § 87(2)(b) stated that he was living at § 87(2)(b) at the time of incident (Board Review 02). On January 1, 2018, § 87(2)(b) left his apartment and walked down the stairs. As he walked down the stairs, § 87(2)(b) passed PO Rabil on the second or third floor and PO Rabil told him to stop. § 87(2)(b) ignored PO Rabil and continued walking. After § 87(2)(b) was approximately two steps before the next landing, PO Rabil forcefully pushed § 87(2)(b) causing him to land on his right foot and falling on the ground. § 87(2)(b) stated that he tore a ligament in his ankle as a result of the push. § 87(2)(b) denied having any preexisting leg injuries and denied jumping down the stairs. In IAB log #18-00048, Captain Gorman reported that § 87(2)(b) ran from the officers and hurt his ankle from jumping down the stairs, which was consistent with the statement § 87(2)(b) provided to IAB Group 54 (Board Review 01). As of February 19, 2019, the IAB investigation is still pending.

The investigation identified the 911 caller as § 87(2)(b) significant other, § 87(2)(b). Despite contact attempts to obtain a statement, § 87(2)(b) was uncooperative during the investigation.

In their CCRB statement, PO Rabil and PO Alexis responded to an assault at the location (Board Review 03 and 04). They did not immediately see § 87(2)(b) at the location, but as they prepared a Domestic Incident Report with the victim, § 87(2)(b) PO Rabil noticed § 87(2)(b) in the hallway from the peephole on the door. PO Rabil opened the door and § 87(2)(b).

§ 87(2)(b) ran. PO Rabil told § 87(2)(b) “Stop right there.” § 87(2)(b) continued to run and PO Rabil chased § 87(2)(b) while PO Alexis followed behind PO Rabil.

PO Rabil followed § 87(2)(b) as he went down the stairs and PO Rabil was approximately seven to eight feet away from § 87(2)(b) (Board Review 04). PO Rabil stated that while going down the flights of stairs, § 87(2)(b) held the side railings and jumped from the top of the stairs to the bottom landing and § 87(2)(b) did this on every floor from the fourth floor to the ground floor. PO Rabil possibly told § 87(2)(b) to stop, but he did not recall. On the bottom of the last landing, § 87(2)(b) shoe came off, causing § 87(2)(b) to stumble. § 87(2)(b) opened the exit door as he stumbled. PO Rabil denied making any physical contact with § 87(2)(b) prior to him stumbling and he denied pushing § 87(2)(b). As § 87(2)(b) opened the door to exit the building, PO Rabil tackled § 87(2)(b) from behind by wrapping his arms around § 87(2)(b) throwing him against the fence, and then falling to the ground. PO Rabil was going to place § 87(2)(b) under arrest.

PO Alexis (Board Review 03) stated that he was approximately five to six feet behind PO Rabil during the pursuit of § 87(2)(b). As they were all going down the stairs toward the third floor, § 87(2)(b) gained distance away from them. PO Rabil and § 87(2)(b) were both hopping steps while PO Alexis was using every step. PO Alexis did not see how many steps § 87(2)(b) hopped as he went down the stairs. On the last steps before the last landing, § 87(2)(b) jumped and lost his balance. § 87(2)(b) swayed from side to side on the last platform, but he did not fall. PO Alexis denied making any physical contact with § 87(2)(b) and he did not see PO Rabil do so. The platform between the last step and the door leading to outside the building was approximately three or four feet. PO Alexis stated that given PO Rabil’s momentum, PO Rabil pushed § 87(2)(b) out the door and they both subsequently fell to the ground.

In PO Rabil’s Threat Resistance or Injury (TRI) report, it was documented that a takedown was used due to a fleeing suspect and to overcome suspect’s aggression (Board Review 14). PO Rabil and PO Alexis’ TRI reports both noted that that § 87(2)(b) hurt his ankle while running down the stairs and was diagnosed with a fractured ankle (Board Review 14 and 17).

The Medical Treatment of Prisoner form also documented that § 87(2)(b) had a fractured right ankle (Board Review 15).

In addition to other charges, § 87(2)(b) was charged with resisting arrest (Board Review 19).

There is no video footage depicting the inside of the staircase when the alleged push occurred.

Video footage obtained from NYCHA depicts the main entrance of § 87(2)(b) (Board Review 05). Due to the low quality of the video, it is unclear what occurred immediately after the door opened. § 87(2)(b) is the first one out the door and PO Rabil is immediately behind him (Board Review 09). § 87(2)(b) body is bent forward. PO Rabil appears to make contact with § 87(2)(b) back area and then § 87(2)(b) ends up on the ground. During his interview, PO Rabil stated that this was when he brought § 87(2)(b) to the ground.

§ 87(2)(b) medical records from § 87(2)(b) noted that § 87(2)(b) went to the hospital on § 87(2)(b) complaining of pain to his right ankle (Privileged). Medical Personnel noted that § 87(2)(b) sustained a fractured right ankle from jumping down the stairs and landing incorrectly when he fled from the police. § 87(2)(b) affirmed that he sustained the injury when he jumped down the stairs.

§ 87(2)(g)

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or otherwise protect life, or when it is reasonable to place person in custody or prevent escape from custody (Board Review 21).

§ 87(2)(g)

Allegation (C) Force: Police Officer Vallery Alexis used physical force against § 87(2)(b)

In his CCRB interview, § 87(2)(b) did not recall being punched (Board Review 02). However, in his statement to IAB Group 54, § 87(2)(b) stated that officers punched him before and after being placed in handcuffs (Board Review 001).

In his CCRB statement, PO Alexis stated that he attempted to grab § 87(2)(b) arms in an attempt to handcuff him while § 87(2)(b) was on the ground, but § 87(2)(b) moved his arms away and cursed at him (Board Review 03). PO Rabil was trying to grab § 87(2)(b) left arm. § 87(2)(b) was not doing anything else to resist at this point. As PO Alexis held § 87(2)(b) arms, PO Alexis punched § 87(2)(b) in the ribs multiple times in succession while telling § 87(2)(b) to stop resisting. PO Alexis did not recall how many times he punched § 87(2)(b). Eventually after punching § 87(2)(b) PO Alexis was able to place one cuff on his right arm and PO Rabil assisted with getting his other arm in handcuffs. PO Alexis denied punching § 87(2)(b) again.

In his CCRB statement, PO Rabil stated that while § 87(2)(b) was faced down on the ground, § 87(2)(b) tried to push the officers off and stiffened his arms (Board Review 04). PO Rabil told § 87(2)(b) to put his hand behind his back multiple times and to comply. PO Rabil had one of § 87(2)(b) arms and PO Alexis tried to get § 87(2)(b) other arm. PO Alexis struck § 87(2)(b) a couple times in the torso area, but PO Rabil did not know where PO Alexis made contact on § 87(2)(b) body or how many times. PO Rabil did not see if PO Alexis struck § 87(2)(b) with a closed fist. Before each strike, PO Alexis told § 87(2)(b) to put his hand behind his back. In response to the strikes, § 87(2)(b) tried to tuck his hand close to his body and tried to push the officers off. PO Alexis was eventually able to get § 87(2)(b) other arm and they placed him in handcuffs. PO Rabil did not see PO Alexis strike § 87(2)(b) after he was handcuffed.

PO Alexis' TRI report documented that a hand strike was used to overcome resistance or aggression (Board Review 17). It also noted that § 87(2)(b) was wrestling/grappling with officers. Furthermore, the ISAR referenced the IAB log which noted that an officer utilized two hand strikes toward § 87(2)(b) waist/lower body prior to him being handcuffed and no additional strikes were used (Board Review 16 and 01).

Video footage obtained from NYCHA depicts the main entrance of § 87(2)(b) (Board Review 05). PO Alexis exits the building after § 87(2)(b) and PO Rabil are on the ground (Board Review 10). Due to the poor video quality, the video is not fit for the purposes of analyzing the force used against § 87(2)(b). However, at one point, PO Alexis' arm is extended above his head and then his arm appears to be moving in a downward motion.

Although during his CCRB interview, § 87(2)(b) did not recall being punched, given the officers' testimony, the investigation determined that PO Alexis punched § 87(2)(b) multiple times as the officers attempted to place him in handcuffs.

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or otherwise protect life, or when it is reasonable to place person in custody or prevent escape from custody (Board Review 21).

§ 87(2)(g)
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§ 87(2)(g)

Allegation (D) Force: Police Officer Vallery Alexis used physical force against § 87(2)(b)

Allegation (E) Force: Police Officer Richardson Rabil used physical force against § 87(2)(b)

Allegation (F) Force: Police Officer Vallery Alexis used physical force against § 87(2)(b)

In his CCRB statement, § 87(2)(b) stated he was brought inside the building after he was handcuffed and he cursed at the officers (Board Review 02). In response, PO Alexis held § 87(2)(b) arms from behind and pushed his arms up. PO Alexis held § 87(2)(b) in this position for a few seconds before he released § 87(2)(b) arms. § 87(2)(b) stated that nothing else occurred inside the building. In his statement to IAB, § 87(2)(b) stated that an officer grabbed his arm “high in the air” and three officers put him on the ground while inside the building.

As noted above, § 87(2)(b) did not provide a statement during the investigation.

In his CCRB statement, PO Alexis stated that § 87(2)(b) was pissed off and was mouthing off, but he did not recall if § 87(2)(b) used profanities (Board Review 03). PO Alexis did not recall § 87(2)(b) falling on the floor inside the lobby. When asked if § 87(2)(b) was ever on the floor inside the lobby, PO Alexis stated, “If that’s the case, he did it on his own accord.” PO Alexis denied taking § 87(2)(b) to the floor in the lobby and he did not see PO Rabil do so. § 87(2)(b) was not resisting in the lobby area and he did not pose a safety concern to PO Alexis. At some point, PO Alexis lifted § 87(2)(b) arms up by the chain of the handcuffs because § 87(2)(b) was not listening to his orders to calm down despite multiple orders to do so. PO Alexis held § 87(2)(b) arms in this position for approximately a couple minutes. PO Alexis performed this action for “pain compliance” which he was taught at the Police Academy 12 years ago. § 87(2)(b) eventually calmed down.

PO Rabil stated that inside the lobby area, § 87(2)(b) got in their face by making threats telling them that he would “fuck them up” (Board Review 04). At some point, PO Rabil and PO Alexis sat § 87(2)(b) on the ground because he was not complying and to gain control of § 87(2)(b) since PO Rabil was leaving PO Alexis to go upstairs to § 87(2)(b). PO Rabil returned to the lobby area with § 87(2)(b) and § 87(2)(b) was standing. PO Alexis was holding § 87(2)(b) arms as they were behind his back. § 87(2)(b) “lost it” and acted more erratically once he saw § 87(2)(b) started screaming, getting in the officers’ faces, “acting out,” and advancing towards the officers. § 87(2)(b) was approximately within arm’s reach of PO Rabil. PO Rabil and PO Alexis possibly told § 87(2)(b) to stop. In response to § 87(2)(b) actions and refusal to comply, PO Alexis brought § 87(2)(b) down to the ground. PO Rabil assisted PO Alexis in bringing § 87(2)(b) down to the ground, but he did not recall what he did. § 87(2)(b) calmed down a bit after he was on the ground. § 87(2)(b) was held on the ground briefly before he was lifted up again. § 87(2)(b) was still upset and still made threats. PO Rabil did not recall seeing PO Alexis lift § 87(2)(b) hands up from the back.

Video footage obtained from NYCHA depicts the lobby area inside § 87(2)(b) (Board Review 07). PO Alexis is seen walking away from the elevators when § 87(2)(b) enters the screen from the left and runs past the elevators while still in handcuffs (Board Review 13). PO Alexis chases after § 87(2)(b) and within seconds, PO Alexis walks § 87(2)(b) back to the lobby while holding his arm.

At another point, while in the lobby, § 87(2)(b) is standing in the lobby when PO Rabil and PO Alexis take § 87(2)(b) down to the ground (Board Review 11). There are no additional officers present at this point. It is unclear as to what occurred prior to this because § 87(2)(b) and the officers were standing out of the camera's view. While on the ground, § 87(2)(b) is faced down and PO Alexis holds § 87(2)(b) arms up for less than a minute before releasing § 87(2)(b) arms.



201800206_W26 NYCHA (4).mp4

After § 87(2)(b) is stood up from the ground, four officers are standing near § 87(2)(b) inside the lobby (Board Review 12). § 87(2)(b) appears to be walking toward PO Alexis and in response, PO Alexis extends his arm in front of him multiple times while another officer appears to be holding § 87(2)(b). At 00:45 seconds, § 87(2)(b) appears to be coming close to another officer and at 00:56 seconds, PO Alexis grabs § 87(2)(b) by the handcuffs and lifts § 87(2)(b) arms upwards behind his back and holds him in that position for approximately over five minutes, until they walk out of the lobby.

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Furthermore, it is undisputed that PO Alexis pulled § 87(2)(b) arms up while he was in handcuffs.

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or otherwise protect life, or when it is reasonable to place person in custody or prevent escape from custody (Board Review 21). Members of the service shall not use any level of force on handcuffed or otherwise restrained subjects unless necessary to prevent injury, escape or to overcome active physical resistance or assault.

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Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 22).
- PO Alexis has been a member of service for 12 years and has been a subject in two CCRB complaints and two allegations, none of which were substantiated. § 87(2)(g)
- PO Rabil has been a member of service for 12 years and has been a subject in two CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- On February 15, 2019, a Notice of Claim query was sent via email (Board Review 20). To date, the results are pending.
- § 87(2)(b); §§ 86(1)(3)(4); § 87(2)(c)

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date